



COMMONWEALTH OF KENTUCKY
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Subject: The eligibility of a firefighter employed in a fire protection district where he does not live to serve as a member of the board of trustees and if such a firefighter may vote in the relevant election pursuant to KRS 75.031.

Requested by: William K. Moore
Board Attorney
Jessamine County Fire District

Written by: Shan J. Dutta

Syllabus: A firefighter for the Jessamine County Fire Protection District is eligible to be elected trustee of the board and vote in such an election if he or she is twenty-one years of age and a citizen of Kentucky.

Statutes construed: KRS 75.100, KRS 75.031

Opinion of the Attorney General

You have asked whether a firefighter employed in a fire protection district where he does not live is eligible to be elected by the firefighters of the district to serve as a member of the board of trustees and if such a firefighter can vote in the election pursuant to KRS 75.031. We advise that he may vote and hold such a position.

The Jessamine County Fire District was created to provide fire protection services to the unincorporated area of Jessamine County. The cities of Nicholasville and Wilmore are located within Jessamine County but operate their own fire departments. As such, the Jessamine County Fire District provides emergency services to the remaining portions of Jessamine County. You inform us that three active firefighters for the Jessamine County Fire District are interested in serving as a trustee on the board. One of these potential candidates is a resident of Fayette County, while the other two reside in Nicholasville.

The affairs of a fire protection district shall be conducted by the board of trustees, which consists of seven (7) members. *See* KRS 75.031(1)(a). Of the seven (7) members, three (3) are to be appointed by the county judge/executive, and four (4) are to be elected by members of the district. *Id.* Of the four (4) to be elected, this occurs in two different elections by different voting pools and by different voting parameters. *Id.* Of relevance here is the method by which two (2) firefighters are elected to serve on the board. KRS 75.031 provides, *inter alia*, that “[t]wo (2) members of the board of trustees [of a fire protection district or a volunteer fire department district] shall be elected by the members of the firefighters of the district and shall be members of the district.” Upon review, we must approach the matter with the view that the plain meaning of statutory language is presumed to be what the legislature intended; if the meaning is plain, then one cannot base its interpretation on any other method or source. *Revenue Cabinet v. O’Daniel*, 153 S.W.3d 815, 819 (Ky. 2005). Only when it would produce an injustice or absurd result should the plain meaning be ignored. *See Johnson v. Frankfort & Cincinnati R.R.*, 197 S.W.2d 432, 434 (1946).

At issue here is whether or not the legislature intended to prohibit firefighters who worked for a fire protection district but were not residents of the geographical area from serving on that district’s board of trustees and voting in the election. When defining a “fire protection district,” the legislature largely focused on geographical boundaries and stated that “... a fire district shall not contain or later include within its boundaries any territory that is located within the corporate limits of a city.” KRS 75.022(2). However, as to elections, the legislature did not focus on the geographical boundaries of a fire protection district.

The area of dispute when determining who is eligible to fill one of the two (2) vacancies dedicated to firefighters involves a review of the definition of a "member," which is defined in KRS 75.100(7) and states that:

Member shall include the chief and all officers; all firefighters, including volunteer, paid, regular, and special firefighters; and all employees of a fire department, a fire protection district, or of a volunteer fire department.

While this definition comes later in KRS Chapter 75, KRS 75.100 repeatedly references and applies terms it defines to earlier provisions in the chapter. Therefore, it necessarily follows that the definition of the term "member" in KRS 75.100(7) applies to earlier provisions of KRS Chapter 75, including KRS 75.031. This definition does not include a residency requirement.


Furthermore, the requirements to be an elected trustee are set forth in KRS 75.031 and states that "[n]o person shall be an elected trustee who, at the time of his or her election, is not a citizen of Kentucky and has not attained the age of twenty-one (21)." Had the legislature intended to limit nominees to those residing in the district, we must presume it would have included language to that effect in either KRS 75.031 or 75.100(7). As such, the meaning is plain, and the result is neither unjust nor absurd.

Accordingly, firefighters for the Jessamine County Fire Protection District are eligible to be considered for a trustee position if the above parameters are met, which do not include the requirement that the member must reside in the geographical boundary of the district. This conclusion also extends to the ability to vote on the two firefighter trustee positions by firefighters not residing in the district, as KRS 75.031 states that these "... trustees shall be elected by members of the firefighters of the district and shall be members of the district."

In summary, a firefighter for the Jessamine County Fire Protection District is eligible to be elected trustee of the board and vote in such an election if he or she is twenty-one years of age and a citizen of Kentucky. KRS Chapter 75 does not require such a firefighter to reside in the geographical boundaries of the Jessamine County Fire Protection District.

Please contact our office if you have any additional questions regarding this matter.

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